

EXHIBIT B

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARY ANN SUSSEX; et al.,

Plaintiffs,

v.

TURNBERRY/MGM GRAND
TOWERS, LLC, et al.,

Defendants.

Case No.: 2:08-cv-00773-MMD-PAL

**DECLARATION OF AKKE
LEVIN IN SUPPORT OF
EMERGENCY MOTION TO
STAY ARBITRATION
PROCEEDINGS**

I, Akke Levin, hereby declare:

1. I am an attorney with Morris Law Group, counsel for defendants Turnberry/MGM Grand Towers, LLC, MGM Grand Condominiums, LLC, The Signature Condominiums, LLC, Turnberry/Harmon Ave., LLC, and Turnberry West Realty, Inc. (collectively, "Turnberry/MGM"). I have personal knowledge of the facts stated in this declaration.

2. On September 4, 2013, the American Arbitration Association ("AAA") notified the parties' counsel that its Administrative Review Council had determined that Brendan Hare would be reaffirmed as the Arbitrator in this case over the objection of Turnberry/MGM.

3. The following week, on September 11, 2013, Turnberry/MGM filed a Motion in this Court for an Order Declaring that Arbitrator Brendan Hare is Disqualified for his Failure to Make Required Disclosures under NRS 38.227 that Establish His Evident Partiality and Request for Oral Argument (# 114) ("Motion to Disqualify"). Turnberry/MGM filed a similar motion in *George Abraham, et al. v. Turnberry/MGM et al.*, Case No. 2:11-cv-01007-JCM-NJK, pending before the Honorable James Mahan.

4. On September 20, 2013, we received a Minute Order from the Honorable Magistrate Judge Nancy J. Koppe in *Abraham*, setting a briefing schedule on the Motion to Disqualify. The briefing schedule suggested to us that the Court contemplated deciding or hearing the Motion shortly thereafter, before the upcoming November 19, 2013 hearing before Arbitrator Hare.

5. On September 30, 2013, Steve Morris and I appeared before the Honorable James Mahan for a status conference and made the Court aware of the pending Motion to Disqualify. Judge Mahan was conversant

the disqualification issue because the subject had previously come up before him on May 20, 2013, when he remarked, "the time to disqualify the arbitrator is now, not wait until he makes an award. . . ." Appendix to *Abraham* Motion to Disqualify (# 61-7), TMGM 263, p. 25. After discussing the subject again on September 30, Judge Mahan, acknowledging the *Sussex* motion, Tr. 8:16-9:04, said that the arbitrator's status concerned him and "If he is going to be disqualified, then hopefully we can get that resolved in a hurry and get a new arbitrator and move on." Tr. September 30, 2013, at 9:1-4 attached as Exhibit 1 to this declaration. The Court concluded the discussion of this subject with a reference to the pending motion to disqualify Arbitrator Hare: "We'll see what the Magistrate Judge [Honorable Nancy J. Koppe] does with the Motion to Disqualify the arbitrator and then hopefully we can get this going." Tr. 10:2-4.

6. The Motion to Disqualify remains under submission at this time. No hearing on the Motion has been set.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on the 7th day of November, 2013.



AKKE LEVIN

EXHIBIT 1

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

THE HONORABLE JAMES C. MAHAN, JUDGE PRESIDING

GEORGE ABRAHAM, et al.,

Plaintiffs,

vs.

NO. 2:11-CV-1007-JCM-NJK

TURNBERRY/MGM GRAND
TOWERS, LLC,

STATUS HEARING

Defendant.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, SEPTEMBER 30, 2013

11:00 A.M.

APPEARANCES:

For the Plaintiffs: DANIEL MARKS, ESQ.
RICARDO EHMANN, ESQ.

For the Defendant: STEVE MORRIS, ESQ.
AKKE LEVIN, ESQ.

Reported by: Joy Garner, CCR 275
Official Federal Court Reporter

JOY GARNER, CCR 275
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1 MS. LEVIN: Yes.

2 THE COURT: I'll put it down for a
3 status check, but I'd like to keep your feet to
4 the fire to be candid and let's get this going.

5 MS. LEVIN: I think these motions have
6 been set on an expedited briefing schedule.

7 THE COURT: All right.

8 MS. LEVIN: So hopefully --

9 THE COURT: Who's the magistrate judge
10 on this now? Is it Foley?

11 MR. MORRIS: Koppe.

12 THE COURT: Koppe, okay, Judge Koppe.
13 Good, okay, all right, good.

14 MS. LEVIN: Thank you.

15 THE COURT: And so then we'll just see
16 where that goes and see what happens. I don't
17 know what Judge Du is going to do. You know,
18 she's going to do whatever she's going to do and
19 we'll see. That wasn't a pun. I didn't mean to
20 make a pun, but Judge Du is going to do whatever
21 she's going to do. That was unintentional, I
22 promise you.

23 But so she can rule on that
24 motion however she wants to or whatever, and you
25 can deal with that. That doesn't concern me,

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1 but, of course, the arbitrator does. If he's
2 going to be disqualified, then hopefully we can
3 get that resolved in a hurry and get a new
4 arbitrator and move on.

5 So what, forty-five days, Mr.
6 Ehmann?

7 MR. EHMANN: Your Honor, just real
8 quick, you know, our actions really are meant to
9 get everything on track to start the arbitration.
10 You know, the recent motion that we filed to
11 relate the cases and our hearing we have on the
12 19th which was delayed for some time due to the
13 filing in state court for defendants, as far as
14 we're concerned, we're back on track for the most
15 part and on the 19th, you know, we should move
16 forward.

17 THE COURT: All right, let's put this
18 down for, let's say, forty-five days for a status
19 check. I just want to keep -- if I can get it to
20 arbitration, then I wouldn't worry about it so
21 much, but I just feel like it's gone off -- it
22 went off the tracks early and I want to try to
23 get it back on track and get it going.

24 All right, so you do whatever
25 you want to do up there, Mr. Ehmann, and like I

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1 say, Judge Du will rule however she's going to
2 rule. It doesn't matter down here. We'll see
3 what the magistrate judge does with the motion to
4 disqualify the arbitrator and then hopefully we
5 can get this going.

6 All right, give us forty-five
7 days, David.

8 MR. EHMANN: Your Honor?

9 THE COURT: Yes, sir.

10 MR. EHMANN: Could we have it after the
11 19th, the forty-five days after the 19th?

12 THE COURT: Let's see, forty-five days,
13 what's the day? Tomorrow is the 1st rather, so
14 forty-five days is going to be after the middle
15 of November sometime.

16 MR. MARKS: Your Honor, I think
17 after -- there's a hearing set in front of the
18 arbitrator November 19th.

19 THE COURT: November 19th?

20 MR. MARKS: So what we're saying is it
21 might make more sense to have your status check
22 once we see what the arbitrator does on November
23 19th.

24 THE COURT: All right, and that's fine.
25 Thank you, Mr. Marks. So after November 19th

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1 then the following week is Thanksgiving week.
2 Well, let's set it down for how about Friday, the
3 22nd? That's the week before Thanksgiving.

4 MR. MARKS: That's fine.

5 MR. EHMANN: That's fine, your Honor.

6 THE CLERK: Friday, November 22nd,
7 2013, at 10:00.

8 THE COURT: At 10:00 and then we can
9 see how all of this is playing out and see where
10 we are with the arbitrator as well. All right,
11 anything else to come before the Court then at
12 this time?

13 MS. LEVIN: Thank you, your Honor.

14 MR. MORRIS: Thank you.

15 THE COURT: All right, thank you. We
16 will be in recess.

17

18 (Whereupon, the proceedings concluded.)

19

20 I hereby certify that pursuant
21 to Section 753, Title 28, United States Code, the
22 foregoing is a true and correct transcript of the
23 stenographically reported proceedings held in the
24 above-entitled matter.

25

24 Date: November 6, 2013

/s/ Joy Garner
JOY GARNER, CCR 275
U.S. Court Reporter

25

____JOY GARNER, CCR 275____
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